

oral request may be made and followed by a written request. An enlargement of time may be granted even though the request was filed after the time for taking the required action expired, but the party requesting the enlargement must show good cause for its inability to make the request before that time expired.

(c) *Computing time.* Except as otherwise required by law, in computing a period of time prescribed by the rules in this part or by order of the Board, the day from which the designated period of time begins to run shall not be counted, but the last day of the period shall be counted, unless that day is (1) a Saturday, a Sunday, or a legal holiday, or (2) a day on which the Office of the Clerk of the Board is required to close earlier than 4:30 p.m., or does not open at all, as in the case of inclement weather, in which event the period shall include the next working day. Except as otherwise provided in this paragraph, when the period of time prescribed or allowed is less than 11 days, any intervening Saturday, Sunday, or legal holiday shall not be counted. When the period of time prescribed or allowed is 11 days or more, and in the cases of the 5-day period after a debriefing date and the 10-day period after contract award for filing a protest that requests a suspension hearing (both described in 6101.19(a)(2)), intervening Saturdays, Sundays, and legal holidays shall be counted. Time for filing any document or copy thereof with the Board expires when the Office of the Clerk of the Board closes on the last day on which such filing may be made.

[58 FR 69250, Dec. 30, 1993, as amended at 60 FR 17026, Apr. 4, 1995]

### 6101.3 Service of papers [Rule 3].

(a) *On whom service must be made.* When a party sends a document to the Board it must at the same time send a copy to any other party in the manner provided in paragraph (b) of this section. Subpoenas (6101.20) and documents filed *in camera* (6101.12(h)) are exceptions to this requirement. Any papers required to be served on a party (except requests for discovery and responses thereto, unless ordered by the Board to be filed) shall be filed with

the Board before service or within a reasonable time thereafter.

(b) *When service must be made—(1) Appeals, applications, and petitions.* When a party to an appeal, application, or petition files a document with the Board, it must serve a copy on the other party by mail or some other equally or more expeditious means of transmittal.

(2) *Protests.* When a protest is filed with the Board, the protester must serve a copy on the contracting officer whose decision or action is being protested by means reasonably calculated to effect delivery on the same day the protest is filed with the Board. When a party to a protest files with the Board any other document, it must serve a copy on every other party by means reasonably calculated to effect delivery within 1 day after the document is filed with the Board.

(c) *Proof of service.* Except when service is not required, a party sending a document to the Board must indicate to the Board that a copy has also been sent to every other party. This may be done by certificate of service, by the notation of a photostatic copy (cc:), or by any other means that can reasonably be expected to indicate to the Board that other parties have received a copy.

(d) *Failure to make service.* If a document sent to the Board by a party does not indicate that a copy has been served on every other party, the Board may return the document to the party that submitted it with such directions as it considers appropriate, or the Board may inquire whether a party has received a copy and note on the record the fact of inquiry and the response, and may also direct the party that submitted the document to serve a copy on any other party. In the absence of proof of service a document may be treated by the Board as not properly filed.

### 6101.4 The appeal file; protest file [Rule 4].

(a) *Submission to the Board by the contracting officer.* Within 30 calendar days from receipt of notice that an appeal has been filed or, in a protest, within 10 working days after its filing, or within such time as the Board may allow, the contracting officer shall file with the

Board appeal or protest file exhibits consisting of all documents and other tangible things relevant to the claim or protest and to the contracting officer's decision which has been appealed or protested, including:

(1) The contracting officer's decision, if any, from which the appeal or protest is taken;

(2) The contract, if any, including amendments, specifications, plans, and drawings;

(3) All correspondence between or among the parties that is relevant to the appeal or protest, including the written claim or claims that are the subject of the appeal, and evidence of their certification, if any;

(4) Affidavits or statements of any witnesses on the matter in dispute or under protest and transcripts of any testimony taken before the filing of the notice of appeal or protest;

(5) All documents and other tangible things on which the contracting officer relied in making the decision or in taking the action protested, including a copy of the agency procurement request, the delegation of procurement authority, if any, and any correspondence relating thereto;

(6) The abstract of bids, if any;

(7) In a protest, a copy of the solicitation, protester's bid or proposal, and, if bid opening has occurred and no contract has been awarded, a copy of any bid relevant to the protest;

(8) In a protest of a negotiated procurement when no award has been made, a copy of any offer or proposal being considered for award and which is relevant to the protest (ordinarily, these documents will be submitted under a protective order issued by the Board); and

(9) Any additional existing evidence or information deemed necessary to determine the merits of the appeal or protest.

The contracting officer shall serve a copy of the appeal or protest file on all parties at the same time that the contracting officer files it with the Board, except that (i) the contracting officer need not serve on any party those documents furnished the Board *in camera* pursuant to 6101.12(h) and (ii) the contracting officer shall serve documents submitted under protective order only

on those individuals who have been granted access to such documents by the Board. However, the contracting officer must serve on all parties a list identifying the specific documents filed with the Board, giving sufficient details necessary for their recognition. The list must not reveal the number and identity of the offerors whose proposals are filed in *in camera* and should include an identifying statement, e.g., "proposal(s) being considered for award." This list must also be filed with the Board as an exhibit to the appeal or protest file.

(b) *Submission to the Board by any other party.* Within 30 calendar days after filing of the respondent's appeal file exhibits, within 5 working days after receipt of the respondent's protest file exhibits, or within such time as the Board may allow, any other party shall file with the Board for inclusion in the appeal or protest file documents or other tangible things relevant to the appeal or protest that have not been submitted by the contracting officer. Any other party shall serve a copy of its additional exhibits upon the respondent and every other party at the same time as it files them with the Board.

(c) *Submissions on order of the Board.* The Board may, at any time during the pendency of the appeal or protest, require any party to file other documents and tangible things as additional exhibits.

(d) *Organization of the appeal and protest files.* Appeal and protest file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order within each submission, earliest documents first; bound in a looseleaf binder on the left margin except where size or shape makes such binding impracticable; numbered; tabbed; and indexed. The numbering shall be consecutive, in whole arabic numerals (no letters, decimals, or fractions), and continuous from one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. In addition, the pages within each exhibit shall be numbered consecutively unless the exhibit already is paginated in a

logical manner. Consecutive pagination of the entire file is not required. The index should include the date and a brief description of each exhibit and shall indicate which exhibits, if any, have been filed with the Board *in camera* or under protective order or otherwise have not been served on every other party.

(e) *Lengthy or bulky documents.* The Board may waive the requirement to furnish other parties copies or duplicates of bulky, lengthy, or outsized documents submitted to the Board as exhibits.

(f) *Use of appeal or protest file as evidence.* All exhibits in the appeal or protest file are part of the record upon which the Board will render its decision, except for those as to which an objection has been sustained. Unless otherwise ordered by the Board, objection to any exhibit may be made at any time before the first witness is sworn or, if the appeal or protest is submitted on the record pursuant to 6101.11, at any time prior to or concurrent with the first record submission. The Board may enlarge the time for such objections and will consider an objection made during a hearing if the ground for objection could not reasonably have been earlier known to the objecting party. If an objection is sustained, the Board will so note in the record.

(g) *When appeal or protest file not required.* Upon motion of a party, the Board may postpone or dispense with the submission of any or all appeal or protest file exhibits.

**6101.5 Filing cases; time limits for filing; docketing; notice of protest by contracting officer [Rule 5].**

(a) *Filing cases.* Filing of a case occurs as provided 6101.1(b)(5).

(1) *Notice of appeal.* (i) A notice of appeal shall be in writing and should be signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a contracting officer's decision, the notice of appeal should describe the decision in enough detail to enable the Board to differentiate that decision from any other; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the contracting officer's decision. If an appeal is taken

from the failure of a contracting officer to issue a decision, the notice of appeal should describe in detail the claim that the contracting officer has failed to decide; the appellant can satisfy this requirement by attaching a copy of the written claim submission to the notice of appeal.

(ii) A written notice in any form, including the one specified in the appendix to this part, is sufficient to initiate an appeal. The notice of appeal should include the following information:

(A) The number and date of the contract;

(B) The name of the agency and the component thereof against which the claim has been asserted;

(C) The name of the contracting officer whose decision or failure to decide is appealed and the date of the decision, if any;

(D) A brief account of the circumstances giving rise to the appeal; and

(E) An estimate of the amount of money in controversy, if any and if known.

(iii) The appellant must send a copy of the notice of appeal to the contracting officer whose decision is appealed or, if there has been no decision, to the contracting officer before whom the appellant's claim is pending.

(2) *Petition.* (i) A petition shall be in writing and should be signed by the petitioner or by the petitioner's attorney or authorized representative. The petition should describe in detail the claim that the contracting officer has failed to decide; the contractor can satisfy this requirement by attaching to the petition a copy of the written claim submission.

(ii) The petition should include the following information:

(A) The number and date of the contract;

(B) The name of the agency and the component thereof against which the claim has been asserted; and

(C) The name of the contracting officer whose decision is sought.

(3) *Protest.* The form for a protest is the pleading prescribed in 6101.7(b)(2), which must be filed with the Board, with a copy to the contracting officer as prescribed in 6101.3(b)(2). A protest may not be filed with the Board by an